

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

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PLR-101794-07

Date:

March 19, 2007

Legend:

Oldco =

Country A =

Entity A =

Sub 1 =

Newco =

New Sub 1 =

New Sub 2 =

Date 1 =

a =

b =

c =

d =

=

Dear :

This letter responds to your January 9, 2007 letter requesting rulings on certain federal income tax consequences of a proposed transaction. The information submitted in that letter and later correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

Summary of Facts

Oldco, a Country A corporation, is a holding company and the sole shareholder of Sub 1, a domestic corporation, and of several foreign subsidiaries. Sub 1 is the common parent of an affiliated group of corporations filing a consolidated return.

For valid business reasons, Oldco intends to domicile in the United States. These business reasons include allowing Oldco to: (i) align its domicile with Sub 1 which produces the majority of its earnings and assets and where it foresees future growth opportunities; (ii) increase its potential for accessing capital in the U.S. and broaden the U.S. investor base (iii) improve its acquisition currency by offering shares of a U.S. company as consideration; and (iv) potentially increase its valuation by achieving an optimal leverage model.

Proposed Transaction

To accomplish the above stated business purposes, Oldco intends to undertake the following steps (collectively, the "Proposed Transaction"):

- (i) Newco will be formed with nominal capital.
- (ii) Newco will form New Sub 1 as a Country A entity, which will elect to be treated as a disregarded entity for U.S. federal income tax purposes.
- (iii) New Sub 1 will form New Sub 2 as a Country A entity, which will elect to be treated as a disregarded entity for U.S. federal income tax purposes.
- (iv) Newco will borrow approximately \$a from unrelated U.S. and foreign lenders.

- (v) New Sub 2 will acquire all of the shares of Oldco pursuant to the laws of Country A. In the exchange, Oldco's shareholders will receive their proportionate share of all of Newco common shares (the "Exchange"). It is expected that Oldco's shares will be exchanged for common stock in Newco on a one-for-one basis. The Oldco shareholders will also receive cash of approximately \$b per share (the "Distribution"). The Distribution will be funded by the borrowings in Step iv.
- (vi) Oldco's shareholders who are residents of certain countries (the "Non-Approved Shareholders") will not receive their proportionate amount of Newco common shares. Instead, the Newco common shares will be issued to and sold on the open market by a nominee on behalf of the Non-Approved Shareholders. The sale proceeds will then be transferred to the Non-Approved Shareholders. The amount of Oldco shares held by Non-Approved Shareholders is not expected to exceed c percent of Oldco's total outstanding shares.
- (vii) Based on the one-for-one exchange ratio, it is not anticipated that any fractional shares will be issued. However, if Newco is required to issue fractional shares, it will pay cash in lieu of distributing any fractional shares.
- (viii) After the Exchange is complete, Oldco will convert to an Entity A under the laws of Country A (the "Conversion") and will then elect as of the effective date of the Conversion to be treated as a disregarded entity for U.S. federal income tax purposes.
- (ix) After the effective date of the Conversion, an unrelated party (or parties) will contribute cash to Newco in exchange for new Newco shares representing approximately d% of the value of Newco's total shares outstanding (the "New Investor Acquisition").

Representations

The following representations have been made in connection with the Proposed Transaction:

- (a) Immediately prior to the Proposed Transaction, Newco will not be engaged in any business activity and will not hold assets, except for nominal assets necessary for the purpose of (i) paying Newco's incidental expenses and (ii) maintaining Newco's status as a corporation in accordance with state law.
- (b) The fair market value of the Newco shares will be approximately equal to the fair market value of the Oldco shares surrendered in the Exchange.

(c) Except for the Non-Approved Shareholders, immediately following the consummation of the Proposed Transaction, the shareholders of Oldco will own all of the outstanding Newco shares and will own such stock solely by reason of their ownership of Oldco shares immediately prior to the Proposed Transaction.

(d) Immediately following Step viii, Newco will possess the same assets and liabilities as those possessed by Oldco immediately prior to the Proposed Transaction, except for the nominal cash contributed to Newco meet capitalization requirements. Other than the Distribution, no assets will be distributed before the Proposed Transaction.

(e) At the time of the Proposed Transaction, Oldco will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire shares in Oldco.

(f) The liabilities of Oldco assumed by Newco plus the liabilities, if any, to which the transferred assets are subject were incurred by Oldco in the ordinary course of its business and are associated with the assets transferred.

(g) The shareholders will pay their respective expenses, if any, incurred in connection with the Proposed Transaction.

(h) Oldco is not under the jurisdiction of a court in a title 11 or similar case within the meaning of § 368(a)(3)(A).

(i) New Sub 1 and New Sub 2 will be eligible to elect to be treated as disregarded entities under Treas. Reg. §§ 301.7701-1 through 301.7701-3 and will make such election effective as of the date of their formation.

(j) Upon its conversion to an Entity A classification, Oldco will be eligible to elect to be treated as a disregarded entity under Treas. Reg. §§ 301.7701-1 through 301.7701-3 and will make such election effective as of the date of the Conversion.

(k) The payment of cash in lieu of fractional shares of Newco stock, if any, is solely for the purpose of avoiding the expense and inconvenience to Newco of issuing fractional shares and does not represent separately bargained-for consideration. The total cash consideration that will be paid to Oldco shareholders instead of issuing fractional shares of Newco stock will not exceed one percent of the total consideration issued in the Proposed Transaction to Oldco shareholders in exchange for their shares of Oldco stock. No Oldco shareholder will receive cash in lieu of fractional shares in an amount greater than the value of one full share of Newco stock.

(l) Oldco is not, nor has it ever been, a controlled foreign corporation, as defined in § 957.

(m) As of Date 1, to the best of Oldco's knowledge and relying upon Country A stock exchange reporting, no U.S. person owns 5% or more of the total voting power or value of Oldco immediately prior to the implementation of any of the steps of the Proposed Transaction.

(n) Oldco estimates that its current and accumulated earnings and profits ("E&P") immediately prior to the Proposed Transaction will not exceed \$6 million.

Rulings

Based solely on the information submitted and the representations made, we rule as follows:

(1) For U.S. federal income tax purposes, Steps i, ii, iii, v, vi, vii, and viii of the Proposed Transaction will be treated as a transfer by Oldco of its assets and liabilities to Newco in exchange for the Newco stock (the "Reorganization").

(2) The Reorganization will qualify as a reorganization under § 368(a)(1)(F) of the Internal Revenue Code (the "Code"). Oldco and Newco each will be "a party to the reorganization" under § 368(b).

(3) No gain or loss will be recognized by Oldco upon the transfer of its assets to Newco in the Reorganization in exchange for Newco shares and Newco's assumption of Oldco's liabilities in the Reorganization (§§ 361(a) and 357(a)).

(4) No gain or loss will be recognized by Newco upon the receipt of Oldco's assets in exchange for Newco shares (§ 1032(a)).

(5) The basis of the Oldco's assets acquired by Newco will be the same as Oldco's basis in such assets immediately prior to the Reorganization (§ 362(b)).

(6) The holding period of the Oldco's assets acquired by Newco will include the periods during which the assets were held by Oldco (§ 1223(2)).

(7) Except as provided in the § 367(b) regulations applicable to the Reorganization, no gain or loss will be recognized by Oldco's shareholders upon their exchange of Oldco shares for Newco shares in the Reorganization (§ 354(a)).

(8) The basis of Newco shares received by Oldco's shareholders will be the same as the basis of Oldco shares exchanged therefore, allocated in the manner described in Treas. Reg. §1.358-2.

(9) The holding period of the Newco shares received by Oldco's shareholders will include the holding period of the Oldco shares exchanged therefore, provided that the Oldco shares are held as capital assets on the date of the Reorganization (§ 1223(1)).

(10) The Distribution will be treated as a § 301 distribution of property by Oldco to its shareholders separate from, and immediately prior to, the Reorganization (Treas. Reg. §1.301-1(l) and Rev. Rul. 96-29, 1996-1 C.B. 50). The receipt by Oldco's shareholders of the Distribution will not prevent the Reorganization from qualifying as a reorganization under § 368(a)(1)(F).

(11) The Non-Approved Shareholders receipt of cash from the sale of their Newco shares will not prevent the Reorganization from qualifying as a reorganization under § 368(a)(1)(F) (Rev. Rul 96-29, 1996-1 C.B. 50).

(12) The New Investor Acquisition will not prevent the Reorganization from qualifying as a reorganization under § 368(a)(1)(F) (Rev. Rul. 96-29, 1996-1 C.B. 50).

Caveats

Except as specifically set forth above, we express no opinion concerning the tax consequences of the Proposed Transaction under any other provision of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings.

Procedural Statements

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling. Pursuant to a power of attorney on file with this office, a copy of this letter will be sent to your authorized representatives.

Sincerely,

Lewis K Brickates
Branch Chief, Branch 4
Office of Associate Chief Counsel (Corporate)